

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	Philadelphia, PA
	)	CR-05-00440-RBS-1
vs.	)	
	)	April 16, 2009
ALTON COLES,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE R. BARCLAY SURRICK  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Government:	RICHARD LLORET, ESQUIRE MICHAEL BRESNICK, ESQUIRE U.S. ATTORNEY'S OFFICE 615 Chestnut Street, Suite 1250 Philadelphia, PA 19106
---------------------	---

For the Defendant: Alton Coles	CHRISTOPHER WARREN, ESQUIRE 1500 Walnut Street Suite 1500 Philadelphia, PA 19102
-----------------------------------	---

Audio Operator	MICHAEL FINNEY
----------------	----------------

Transcribed by:	DIANA DOMAN TRANSCRIBING P.O. Box 129 Gibbsboro, New Jersey 08026-129 (856) 435-7172 FAX: (856) 435-7124 Email: <a href="mailto:Dianadoman@comcast.net">Dianadoman@comcast.net</a>
-----------------	---

Proceedings recorded by electronic sound recording; transcript  
produced by transcription service.

1

I N D E X

2

PAGE

3

Sentence

24

## Colloquy

3

(Court in Session)

THE COURT: We have the case of the United States v. Alton Coles. It's number 5-440-1. Counsel, please identify yourselves for the record.

MR. LLORET: Yes, Your Honor. Richard Lloret on behalf of the Government. With me at counsel table is Michael Bresnick, my co-counsel, as well as Agent Michael Ricko from the ATF.

AGENT RICKO: Good morning.

MR. WARREN: Good morning, Your Honor. Christopher Warren on behalf of Mr. Coles who is seated here to my left.

THE COURT: All right. Counsel, we're here this morning for sentencing of Mr. Coles. The presentence investigation report was sent to counsel. There were no objections lodged to that report. However, Mr. Warren, you have raised certain objections in your sentencing memorandum.

MR. WARREN: Some of the -- some of the -- I've discussed this with Mr. Lloret. Some of the objections dealt with whether or not there was a mandatory life sentence on the drug conspiracy charge. He disagrees with my argument that the New Jersey conviction was not final at the time that the conspiracy began, but I think we do have an agreement on the Rutledge (phonetic) argument, that Rutledge makes the drug conspiracy a lesser included offense of the CCE, and I believe that he agrees with me on that, which I, frankly, would moot

Colloquy

4

1 out the other argument as far as I see it.

2 THE COURT: Well, I guess it would moot it out, but I  
3 think it would be prudent to make decisions on the issues so  
4 that everyone knows where we are.

5 MR. WARREN: I agree, sir. We agree.

6 THE COURT: All right. With regard to the mandatory  
7 life sentence on Count One, it's your position that the --  
8 there are not two felony convictions that occurred.

9 MR. WARREN: It's my position, Judge, that although  
10 the New Jersey offense he was arrested for is before the  
11 conspiracy began in 1998, he wasn't actually sentenced on it  
12 until 2002, and under New Jersey law, he had 45 days from the  
13 date the sentence was imposed to appeal, which would make,  
14 under my view, the conviction final in 2003, and since that is  
15 after the conspiracy began in 1998, our initial position was  
16 that the New Jersey conviction was not final at the time he  
17 began commission of this particular offense, and the statute  
18 requires the third offense to have begun after the two previous  
19 convictions became final, and since the New Jersey conviction  
20 was not final after the conspiracy began in 1998, it was my  
21 position he did not have two prior felony convictions that  
22 preceded commencement of the conspiracy charge.

23 THE COURT: All right. Mr. Lloret?

24 MR. LLORET: Yes, Your Honor. The -- to put this in  
25 encapsulated clearly, the real nub of the issue is whether the

## Colloquy

5

1 New Jersey conviction has to be final for all purposes before  
2 the conspiracy starts or before it ends, and the -- the correct  
3 law, the correct legal standard we assert is that it has to be  
4 final before the conspiracy ends.

5 In this case, there is no factual dispute that the  
6 conspiracy went on until 2005. This -- and there is no factual  
7 dispute that the conviction in New Jersey was final, under  
8 whatever definition of final you choose to make, in 2003.

9 There is an opinion. Counsel cited the Allen opinion  
10 in his brief. I did some research this morning. There is a  
11 subsequent decision in the Eighth Circuit, which I believe  
12 addresses this head on. That's United States v. Pratt. It's  
13 553 F.3rd 1165, and in Pratt, the situation was much the same,  
14 virtually four square as it is in Coles, and that is it  
15 involved a situation where there were overt acts in the  
16 conspiracy after the final decision or the decision, the prior  
17 conviction became final, and that court held that in that set  
18 of circumstances, it was a final decision.

19 So I feel secure in arguing to the Court that that  
20 interpretation of the law is the correct one. In this case, if  
21 the Court adopts the reasoning in Pratt, there really -- at  
22 that point, there would be no issue factually. Thank you.

23 THE COURT: All right.

24 MR. WARREN: And, Judge, I have no reason to disagree  
25 with Mr. Lloret's presentation of the facts involving Pratt.

## Colloquy

6

1 THE COURT: All right. The conspiracy in this matter  
2 went on from 1998, '99 to 2005. This conviction was final  
3 certainly some time in 2003. I'm satisfied that based upon  
4 Pratt and based upon the facts in this particular situation,  
5 that there are two final prior convictions that support the  
6 mandatory minimum life sentence.

7 So I'm going to overrule your objection, Mr. Warren,  
8 and we will address the matter as though Counts One and --  
9 well, Count One as a mandatory minimum sentence. All right?

10 MR. WARREN: All right. That would raise a second  
11 issue, Judge. In the Rutledge case cited in my memorandum,  
12 that's where the Supreme Court held that 846, which is the drug  
13 conspiracy here, is, in fact, a lesser included offense of the  
14 continuing criminal enterprise, and in that case, they held  
15 that I think what the Seventh Circuit had done there is impose  
16 two concurrent life terms, and the Supreme Court held that you  
17 can't do that, because there is no evidence that Congress  
18 intended multiple punishments for separate offenses under the  
19 circumstances, and the Supreme Court held that what you had to  
20 do, because even a penalty as minimum as a \$50 special  
21 assessment I believe was at issue there, you cannot impose a  
22 concurrent life term on Count One. In fact, my reading of  
23 Rutledge is that you have to vacate the conviction on Count  
24 One, and if, per chance, the Court of Appeals might set aside  
25 the conviction on the continuing criminal enterprise

## Colloquy

7

1 conviction, I believe the Supreme Court has said under those  
2 circumstances, the Circuit Court would be allowed to reinstate  
3 the conviction on Count One. I believe the Government agrees  
4 with me, but I don't want to speak for Mr. Lloret.

5 THE COURT: Mr. Lloret, the Rutledge case does say  
6 what it says.

7 MR. LLORET: There is no question that it does, Your  
8 Honor, and, in fact, I'm in the position of having briefed this  
9 and conceded on appeal in a previous case.

10 THE COURT: I saw that opinion.

11 MR. LLORET: Oh, well, then Your Honor is familiar  
12 with my concession on appeal. I'll stand by that. I mean,  
13 clearly, it's the law, and that's where we are.

14 Your Honor, because this would require approvals at a  
15 level much higher than my paid rate and we are dealing with  
16 this issue overnight, I'm not in a position at this moment to  
17 move to vacate Count One. However, I fully acknowledge that  
18 under the circumstances, the course of action that Mr. Warren  
19 suggested by -- is the appropriate one under the law.

20 THE COURT: Well, the Rutledge case does suggest that  
21 that's the way to deal with the situation, to vacate the  
22 conviction. Quite frankly, I was of the opinion that  
23 suspending the sentence probably would make more sense, but  
24 the Supreme Court has spoken.

25 MR. LLORET: Judge, I think a number of other trial

## Colloquy

8

1 judges were of the same opinion before Rutledge, and  
2 apparently, the \$50 special assessment got in the way. So --

3 THE COURT: Evidently.

4 MR. LLORET: So I leave it at that, Your Honor.  
5 Thank you.

6 THE COURT: All right. We will follow Rutledge. We  
7 will sentence only on Count Two, mandatory life sentence.

8 MR. WARREN: Okay. And, Judge, that raises the third  
9 issue that I -- the section of my memorandum, I talk about the  
10 mandatory minimums, and that deals with the consecutive  
11 sentences for the 924<sup>©</sup> violations.

12 First and foremost, and I believe the Government  
13 agrees with this, because they pointed out in their sentencing  
14 memorandum that there is a mistake in the presentence report.  
15 It has him convicted of more 924(c)'s than he was actually  
16 convicted of, and in my memo, I identified -- I think it's  
17 paragraphs -- page 2 of the presentence investigation report  
18 identifies all of the offenses that he was convicted of  
19 including Counts 181 through 184, which he was acquitted of two  
20 and the Court granted judgment of acquittal on two. So I think  
21 the presentence report has to be corrected on page 2 to reflect  
22 that he was not convicted of those, and in paragraphs 159  
23 through 162 of the PSI, it also lists those 924<sup>©</sup> offenses as  
24 being convictions, and paragraph 163 I believe identifies a  
25 higher mandatory minimum consecutive term than that which



## Colloquy

9

1 applies here, which is 55 years.

2 So I believe that paragraphs 159 through 162 have to  
3 be omitted or deleted, because he wasn't convicted of those.  
4 Paragraph 163 should reflect that the mandatory minimum  
5 consecutive term is 55 years, and page 2 where it lists the  
6 offenses of which he is convicted should delete -- I believe  
7 it's Counts 181 through 184. I believe we're in agreement with  
8 that on the Government as well.

9 MR. LLORET: Yes, Your Honor.

10 THE COURT: All right. Counts 181 and 182, the  
11 defendant was acquitted. The PSR should be amended to reflect  
12 that. Counts 183 and 184 were dismissed. The presentence  
13 report should be amended to reflect that.

14 With regard to your argument, Mr. Warren, about the  
15 consecutive sentences and the Second Circuit opinion --

16 MR. WARREN: I understand I've already lost that,  
17 Your Honor. It's my understanding in speaking with Mr. Lloret  
18 this morning that that argument was addressed by one of my  
19 colleagues. I'm sure if I had made it, the result would have  
20 been different, but the Court has already ruled on this issue.

21 I just raise for the record the Williams case which  
22 is cited in my memorandum in which the Second Circuit held that  
23 the language of 924<sup>©</sup> states that except to the extent a higher  
24 minimum term is required under any other provision of law, and  
25 we do have a higher minimum term of imprisonment I suspect.

## Colloquy

10

1 When the Government finishes identifying the evidence under the  
2 CCE, it would be a mandatory life term. The Second Circuit  
3 held in Williams that if you have that situation, then you  
4 don't get the consecutive mandatory minimum terms under 924<sup>©</sup>.

5 Again, I understand the Court has ruled on this in  
6 this very case in connection with another defendant, but I  
7 simply raise my objection and believe that the Williams case is  
8 the correct result here.

9 MR. LLORET: Your Honor, just briefly, for the same  
10 reasons we argued in the McGett matter, there are several  
11 Circuit Court opinions that address this. We were able to  
12 identify overnight three at least, Jolivet, which is 257  
13 F.3rd 581, Alaniz, A L A N I Z --

14 THE COURT: It's an Eighth Circuit.

15 MR. LLORET: Yes, Your Honor. Your Honor is familiar  
16 with it. So I won't belabor this. Bottom line, Your Honor,  
17 the Williams case stands alone. Its reasoning we believe is --  
18 is incorrect. We believe that the correct interpretation of  
19 the statute is that the mandatory minima that are excluded or  
20 that are not to be taken into account under the statute are  
21 only those that apply to gun counts and not to the drug -- if  
22 there is a drug mandatory minimum, the gun mandatory minimum is  
23 to be applied in addition to that. We'll leave it at that.

24 THE COURT: All right. Mr. Warren, I'm going to  
25 overrule your objection. The Fourth Circuit has spoken to the

## Colloquy

11

1 issue. The Eighth Circuit has spoken to the issue. I have  
2 already ruled in the McGett case on this particular issue, and  
3 I think that the Third Circuit will follow the Fourth and the  
4 Eighth Circuit. I think to accept the interpretation of the  
5 Second Circuit is to disregard Congress's intent in this entire  
6 situation. So I am going to deny your request in that regard.  
7 All right?

8 MR. WARREN: All right. Judge, that brings us to  
9 section B of my memorandum, which speaks about the mandatory  
10 life term under the continuing criminal enterprise statute.  
11 Math has never been my forte, but I believe I actually got the  
12 numbers correct.

13 In order to -- and again, I cite the Tidwell  
14 (phonetic) case in there, which I'm sure the Court is aware  
15 strips me of any ability to make at jury trial, that the jury  
16 has to decide these quantities or that they had to be proven  
17 beyond a reasonable doubt, and, in fact, they were charged in  
18 the indictment. So I can't make that.

19 The Third Circuit has made it quite plain that  
20 because the statutory maximum penalty under the continuing  
21 criminal enterprise statute is life, that the Court -- that  
22 this is a sentencing enhancement, and as such, it does not have  
23 to be submitted to the jury. They don't have to make findings,  
24 and the Court is allowed to make the requisite findings by a  
25 preponderance of the evidence.

## Colloquy

12

1 I also understand that the presentence investigation  
2 report states in paragraph 23 -- it has quantities in there,  
3 2,795 kilograms of cocaine, which would certainly exceed 150,  
4 and it also talks about 300 kilograms of cocaine base. Those  
5 would be the quantities that were distributed during the course  
6 of the conspiracy by its members.

7 I did not object to this. I am not prepared to  
8 concede it. My only request, and I've made this to the  
9 Government, is that they identify the evidence which they  
10 believe would support any fact findings that the Court makes  
11 with respect to the quantities.

12 THE COURT: All right. Mr. Lloret?

13 MR. LLORET: Yes, Your Honor. If I may, I am  
14 prepared to do that by proffer, Your Honor, and I think that  
15 that is acceptable to counsel. We can lay out the record.

16 MR. WARREN: Without objection.

17 THE COURT: All right.

18 MR. LLORET: Your Honor, first of all, the Government  
19 relies on the testimony at trial of -- and incorporates by  
20 reference, obviously, all of the testimony at trial. This was  
21 a seven week trial, at which a variety of evidence was educed  
22 about the length of the conspiracy which extended from 1998 to  
23 2005 as well as the amounts of the -- of cocaine and cocaine  
24 base that were being distributed.

25 I will identify specific -- in order so that the

## Colloquy

13

1 record is clear, Your Honor, I'd like to identify specifically.  
2 This will take a little bit of time but I think it's  
3 worthwhile, my identifying what the Government would prove if  
4 called upon to educe evidence here at sentencing as opposed to  
5 trial. It was a long trial, and I know memories grow or fade  
6 after some period of time, but let me -- let me go through the  
7 Government's drug calculations based on the evidence that is  
8 available to the Government and available to Pretrial Services  
9 and to the Court at sentencing --

10 THE COURT: All right.

11 MR. LLORET: -- which includes not only the evidence  
12 at trial, but also, additional evidence.

13 THE COURT: All right.

14 MR. LLORET: The testimony of Kristina Latney and  
15 others identified the beginning date of Coles' cocaine  
16 distribution enterprise. It certainly began in 1997 and as  
17 early as January 1st of 1998. There was additional evidence at  
18 trial that it actually proceeded that time, but certainly, it  
19 was going on at that point in time.

20 Historical information provided by several  
21 cooperators, including Charlton Custis and others, indicate  
22 that as early as 2001, he was moving -- that is, Mr. Coles was  
23 moving four and a half to nine ounces of crack per week at the  
24 2000 block of Cecil Street during the period 2001 to 2005. In  
25 2002, a witness identified Terry Walker and Randall Austin as

## Colloquy

14

1 suppliers of weight amounts of cocaine including a one kilogram  
2 deal that went sour on April 14th of 2002, which resulted in  
3 the homicide committed by Randall Austin at the Philadelphia  
4 Zoo. 2002, approximately 500 grams of cocaine were recovered  
5 at 2636 Daphney Road in Philadelphia on April 15th of 2002  
6 along with firearms, packaging material, and many other items  
7 of paraphernalia that were consistent with a large cocaine  
8 stash house and distribution point.

9 Those items were also consistent with what was found  
10 in the location of 339 Essex Avenue in August of 2005. In  
11 fact, in many instances, were remarkably similar to that,  
12 indicating that this was an ongoing criminal conspiracy that  
13 had most of its elements intact certainly by 2002.

14 2003, Mr. Walker and Hakim Johnson were seen at  
15 Tamika's Bar (phonetic) in West Philadelphia. Walker delivered  
16 approximately 250 grams of powder cocaine to Mr. Hakim Johnson.  
17 Both of these were co-conspirators. They were arrested and  
18 charged in the State Court.

19 From 2001 to 2005, I will not go through the many  
20 episodes of cocaine distribution that are alleged in the  
21 indictment that relate to the Paschall Homes. I will say that  
22 they proceed in time from March 22nd of 2001 involving the  
23 defendant, Anwar Linder, and proceed to allege a variety -- a  
24 large number of arrests and recoveries of cocaine and cocaine  
25 base from Anwar Linder, from Desmond Faison, from Tyreek

## Colloquy

15

1 McGeth, as well as from Lynette Simpson, another co-  
2 conspirator.

3 Information derived from a cooperator by the name of  
4 Alfonse Zuguar indicated that from June of 2004 until his  
5 arrest or until an arrest in September of 2004, there were  
6 approximately four and a half ounces of cocaine per week for  
7 four months. From late September of '04 until early October,  
8 2004, Zuguar was obtaining cocaine from Alton Coles, and he  
9 was, indeed, obtaining cocaine from Alton Coles before that.

10 During the period of late 2004, he was obtaining from  
11 Hakim Johnson, who was a courier for Alton Coles. By November  
12 of 2004, Alfonse Zuguar was obtaining about four and a half  
13 ounces for \$2,900 and then -- or January of 2005, Mr. Zuguar  
14 began dealing directly with Alton Coles. He went from four a  
15 half ounces to nine ounces per week and then up to 18 ounces or  
16 half a kilo at a time. By April of 2005, he had graduated to  
17 kilo amounts on a weekly basis from Hakim Johnson to Alfonse  
18 Zuguar, Hakim Johnson being a courier for Alton Coles, a total  
19 of approximately nine kilograms of crack that were distributed  
20 by Alfonse Zuguar in approximately one year attributable to  
21 Alton Coles.

22 Mr. Barry White gave information corroborated by  
23 Charlton Custis that Charlton Custis did approximately four and  
24 a half ounces per week or 18 ounces per month for about five  
25 and a half years, which would have worked out to about 33 kilos

## Colloquy

16

1 of crack cocaine distributed from the Cecil Street location.  
2 Simpson's information extended for a period from the summer of  
3 2001 until February 14th of 2005, approximately 33 kilos of  
4 crack during that period, 7.5 kilos per year or in total,  
5 approximately 78 kilos of crack attributable to the Paschall  
6 Homes side of the distribution network.

7 Mr. Faison supplied information that he dealt  
8 approximately three kilograms of cocaine per month from Alton  
9 Coles through his street vending organization at Paschall  
10 Homes. This cocaine was cut before it was sold and likely  
11 resulted at about 50 percent ratio, approximately six kilograms  
12 of crack per month at the street level. Mr. Faison was also  
13 obtaining large amounts of cocaine, that is, powder cocaine for  
14 redistribution and weight quantity.

15 Known crack dealers at the Cecil Street location were  
16 Robert Cooper, Keenan Brown, Leroy Perkins (phonetic), Troy  
17 Wilson, Robert Payton (phonetic), Barry White. The six  
18 kilograms of crack a year sold at Cecil Street is probably a  
19 very conservative amount. The rate of crack sales is 36  
20 kilograms per year at Paschall Homes, six kilograms per year at  
21 Cecil Street. Other locations including Baltimore through Gary  
22 Creek in West Chester, which was a known location where were  
23 weight was distributed are not being used in the calculations.

24 In sum, Your Honor, and I will not -- I will cut to  
25 the bottom line, Your Honor. Suffice it to say based on the



## Colloquy

17

1       totality of the cooperating witnesses, the totality of the  
2       evidence at trial, which included seizures of enormous amounts  
3       of cash exceeding \$1.0 million in cash, the location of a  
4       number of cocaine storage facilities, the crack totals for this  
5       period of time using 40 kilograms per year, a relatively  
6       conservative number, times about seven or eight years, resulted  
7       in 306 kilograms of crack. The actual total crack is likely to  
8       be much closer to totals of cocaine which are in excess of  
9       2,000 kilograms of cocaine at approximately 1 kilo per days  
10      over the period of 7.66 years, which is a conservative estimate  
11      of the -- of the conspiracy's duration.

12               Your Honor, none of these calculations are what I  
13      would say a stretch in terms of how much weight was being  
14      distributed. They are all very conservative, and I think they  
15      amply establish the basis for imposing the mandatory life  
16      sentence for a kingpin.

17               MR. WARREN: Your Honor, I have no reason to quibble  
18      with Mr. Lloret's numbers or recitation of the evidence or any  
19      of the information that was contained in the discovery  
20      materials, and the only issue as I see at this particular point  
21      is whether or not you find that information reliable. If you  
22      do, then you have an adequate basis to make your findings.

23               THE COURT: I do find that information reliable, Mr.  
24      Warren, and I find that, certainly, the requirements for a life  
25      imprisonment term under Count Two have been met. The volume of

## Colloquy

18

1 cocaine here was enormous, volume of crack and powder cocaine,  
2 and the evidence at trial established that without question,  
3 and I so find. All right?

4 MR. WARREN: Your Honor, that may render somewhat  
5 academic the guidelines in the 3553(a) factors. I identified  
6 in paragraph note 4 in my memorandum after I met with my  
7 client, he had identified some of this stuff. I believe after  
8 speaking with him this morning, he is prepared to withdraw to  
9 the -- I call them corrections. He's prepared to withdraw what  
10 I guess are objections in footnote 4 of my memorandum.

11 It was stuff like, Judge, he recalled Desmond Faison  
12 testifying that he began supplying Faison in 2004 instead of  
13 2002 as set forth in the presentence report. He also -- the  
14 presentence report says that he accompanied Amin Wiggins when  
15 Wiggins purchased a gun and that kind of stuff.

16 He -- I have spoken to him this morning, and he  
17 really doesn't want to press those objections. Is that right,  
18 Mr. Coles? Can you speak?

19 MR. COLES: Yeah. That's correct.

20 THE COURT: All right.

21 MR. WARREN: Okay. So with that, Judge, I believe we  
22 resolved all the legal issues. I mean, I made kind of a  
23 guidelines type pitch in my sentencing memorandum. It is  
24 entirely academic, most respectfully, at this point given that  
25 he is looking at a statutory minimum life term under the

## Colloquy

19

1 continuing criminal enterprise statute.

2 So I understand that the Court -- the Government is  
3 recommending that you do it. I understand if you want to do  
4 it. I certainly don't think it's necessary at this point. I  
5 think the guidelines are a moot issue.

6 THE COURT: All right.

7 MR. LLORET: Your Honor, we would like the Court's  
8 findings under the guidelines. One never does know when one  
9 goes up to the Third Circuit what will, in fact, happen. So I  
10 do ask that the Court make a determination.

11 I will simply rely on the guideline analysis that  
12 we've made in our sentencing memoranda. I don't think I need  
13 to go through that and read it to the Court. So I'll leave it  
14 at that. But suffice it to say, Your Honor, we believe that  
15 under all of the elements and factors that the Court is called  
16 upon to review and to consider under 3553(a), Mr. Coles has  
17 amply demonstrated that he deserves a life sentence. The  
18 guidelines clearly would be to some extent vitiated if in this  
19 set of circumstances, Mr. Coles were not given a life sentence.  
20 There -- the -- the amounts of cocaine, the destruction levied  
21 upon society generally, the long-term nature, the -- the  
22 extreme criminal history, 18 criminal history points, where 13  
23 suffice to give you the highest level that you can obtain under  
24 the guidelines, all of these indicate that Mr. Coles has put  
25 himself, as they -- they say colloquially, down and -- and to

## Colloquy

20

1 the right of the sentencing guidelines grid. So far, that --  
2 it's really off the grid, and nothing but a life sentence is  
3 really going to suffice, whether it's under the guidelines or  
4 under 3553(a). Thank you.

5 MR. WARREN: Your Honor, I just want to state for the  
6 record, Judge, as I said in footnote 4, other than the stuff  
7 that we have gone over, the calculations and the presentence  
8 investigation report of the offense level, they're correct.  
9 All right? So we don't have any objection to the calculations.  
10 They're correct. So --

11 THE COURT: All right. Mr. Warren, do you have  
12 anything more you want to say on behalf of your client?

13 MR. WARREN: Judge, there is not too much I can say  
14 at this particular point. He is subject to a statutory minimum  
15 term of life imprisonment. It is, I am sure, an extremely sad,  
16 sad day for him. The words contrition and remorse are empty  
17 and hollow to the way he's probably feeling right now. I wish  
18 there is something I could say, but the Court has absolutely no  
19 discretion whatsoever. You are required by Congress to  
20 incarcerate him for the rest of his natural life, and nothing I  
21 or he can say can change that fact.

22 THE COURT: Mr. Lloret, do you have anything further?

23 MR. LLORET: Your Honor, I think I've said what I had  
24 to say in the last summary. It's never a pleasant duty to come  
25 before the Court and ask for life, but I think absolutely,

Colloquy

21

1 Congress does require it, and in this case, it's well deserved.

2 THE COURT: In this situation we have not only life,  
3 but we have those mandatory --

4 MR. WARREN: Correct, sir.

5 THE COURT: All right. Mr. Warren, do you want to  
6 bring your client forward? Mr. Coles, I'm going to impose  
7 sentence on you in a few minutes. Before I do that, however, I  
8 will hear anything that you want to say.

9 MR. COLES: I guess I want to say I definitely -- I  
10 never thought it would come to this, but it came to this, and I  
11 don't -- me personally, I don't think life is deserved by no  
12 human being for selling drugs, period, because a lot of times,  
13 we like -- we are a product of our environment, and like me,  
14 the streets raised me. My father wasn't there, and -- excuse  
15 me. My father was a crack head. My mother kicked me out when  
16 I was 12. So I became a man of my own.

17 So I never did no time. I never did -- my longest  
18 sentence was seven, eight months. So you never respect your  
19 life or value it until it's taken away from you. That's  
20 basically all I got to say.

21 THE COURT: All right. In many respects, this case  
22 is somewhat of a tragedy. Mr. Coles is going to spend the rest  
23 of his life in jail.

24 The crime that we are talking about here, however, is  
25 a horrendous crime. Mr. Coles is running a drug operation that

## Colloquy

22

1 covered not only the Philadelphia area, but went into Maryland  
2 and went over to New Jersey. There was a huge amount of drugs  
3 involved and many, many people. There were 22 defendants in  
4 this particular case.

5 The amount of drugs involved was staggering. The  
6 money involved was even more staggering. Millions and millions  
7 and millions of dollars. When searches were conducted in this  
8 matter, they found bags full of money. I think there was nine  
9 hundred and some thousand dollars in cash found in a New Jersey  
10 home. So the crime here was just horrendous, and the  
11 punishment that has to be imposed to fit that crime has to be  
12 significant also.

13 The defendant has a prior criminal history. He has  
14 eight prior convictions. He was a high profile drug seller  
15 too. Everybody in the area knew Ace Capone, and everybody, I  
16 think, knew what business he was in in addition to Takedown  
17 Records. So we have to impose a sentence that fits Mr. Capone  
18 and will deter others who feel that they want to get involved  
19 in this kind of situation so that they can drive Bentleys and  
20 Mercedes and buy homes worth hundreds of thousands of dollars.  
21 The punishment has to fit the crime and deter. We obviously  
22 have to protect the public, and the sentence that I have to  
23 impose here will certainly protect the public from Mr. Coles  
24 from any future criminal activity.

25 So in looking at the situation, yes, it is a tragedy

1       that you have to send anybody to jail for the rest of their  
2       life. There is no question about that, but the crime here  
3       certainly calls for extreme punishment, and that punishment  
4       will be meted out.

5               In addition to the life sentence, there are mandatory  
6       minimum consecutive sentences that have to be imposed, and when  
7       you look at the violence that's involved, the drugs and the  
8       guns that were involved, thinking now of the testimony with  
9       regard to the Essex Avenue and Daphney Road and the weapons  
10      that were found, the mandatory sentences under those  
11      circumstances, consecutive, seem to fit the crime.

12             So I'm going to impose the sentences that the law  
13      require me to impose. I think that they certainly are called  
14      for considering the nature of the conduct here.

15             Mr. Warren, do you have anything more that you want  
16      to say before I formally impose the sentence?

17             MR. WARREN: No, sir. Thank you.

18             THE COURT: Mr. Lloret, do you have anything more  
19      that you want to say?

20             MR. LLORET: Two things, Your Honor. Is part of the  
21      sentence that Your Honor would adopt the guidelines  
22      calculations contained in the pretrial -- presentence report?

23             THE COURT: The -- certainly. The guidelines  
24      calculations call for life also.

25             MR. LLORET: And the second thing, Your Honor, is we

## Sentence

24

1 would ask for an additional seven-day period to submit our  
2 final order of forfeiture or the forfeiture order that pertains  
3 to Mr. Coles.

4 MR. WARREN: Without objection, sir. I didn't have  
5 any basis to contest it to begin with.

6 THE COURT: I'll grant that request.

7 MR. LLORET: Thank you, Your Honor.

8 THE COURT: Pursuant to the Sentencing Reform Act of  
9 1984, it's the judgment of this Court that you, Alton Coles, be  
10 committed to the custody of the Bureau of Prisons for the  
11 period of life plus 55 years as follows. On Count Two of the  
12 indictment, you are sentenced to life imprisonment. On Counts  
13 38, 41, 48, 50 and 56, you are sentenced to four years  
14 incarceration on each count. On Counts 40, 62, 87 and 88, you  
15 are sentenced to 30 years imprisonment on each count. On  
16 Counts 49, 61, 77, 80, and 175, you are sentenced to 20 years  
17 imprisonment on each count. On Counts 59, 60, and 71, you are  
18 sentenced to a period of ten years imprisonment on each count.  
19 On Counts 81 and 86 -- 81 through 86, you are sentenced to a  
20 period of incarceration of five years on each count. The  
21 sentences are to run concurrently with each other.

22 On Count 68, you are sentenced to a period of  
23 incarceration of five years. That sentence is to run  
24 consecutively to the sentences on the counts that I've just  
25 enumerated. On Count 70, you are sentenced to a term of 25



## Sentence

25

1 years, and that sentence is to run consecutively to the  
2 sentences on all other counts. Finally, on Count 72, you are  
3 to be incarcerated for a period of 25 years, and that sentence  
4 is to run consecutively to all the sentences on the other  
5 counts.

6 That is a total sentence of life imprisonment plus 55  
7 years. That is the sentence that's called for by the statutes.

8 Mr. Coles, if you are ever released from prison,  
9 you're placed on supervised release for a period of six years,  
10 and that supervised release will be as follows. Counts 38, 41,  
11 48, 50 and 56, one year on each count; Counts 40 and 62, six  
12 years on each count; Counts 49, 59, 60, 61, 71, 77 through 86,  
13 and 175, three years on each count; and on Counts 68, 70, 72,  
14 87, and 88, five years on each count. Those sentences of  
15 supervised release are to run concurrently with each other.

16 The specific conditions of supervised release are  
17 that you're not to possess controlled substances. You're not  
18 to possess firearms. You're not to violate any State, Federal,  
19 or local laws.

20 The Court based upon the sentence that I've just  
21 imposed is not going to impose a fine. No useful purpose would  
22 be served by that.

23 You are to pay the special assessments, and the total  
24 special assessments in this situation are I believe \$4,100, and  
25 you are to stand committed until that sentence is complied

Sentence

26

1 with.

2 Mr. Coles, do you understand the sentence that I've  
3 just imposed?

4 MR. COLES: Yes.

5 THE COURT: Do you understand you have a right to  
6 appeal?

7 MR. COLES: Yes.

8 THE COURT: If you want to file an appeal, it has to  
9 be done within ten days. We'll give you an attorney free of  
10 charge to do that.

11 MR. COLES: Yes.

12 THE COURT: Mr. Warren, you are representing Mr.  
13 Coles. You will protect his interest during any appeal period.

14 MR. WARREN: I will, sir.

15 THE COURT: Does the Government or the defense have  
16 anything further?

17 MR. WARREN: Nothing on behalf of defense, sir.

18 MR. LLORET: Nothing further, Your Honor.

19 THE COURT: All right. Recess.

20 (Court Adjourned)

21

\* \* \* \* \*

C E R T I F I C A T I O N

I, Maureen Emmons, court approved transcriber,  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter.

Date:

MAUREEN EMMONS

DIANA DOMAN TRANSCRIBING